

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: BAIR HUGGER FORCED AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/FLN)

This Document Relates To:
All Actions

**DECLARATION OF BENJAMIN W.
HULSE IN SUPPORT OF
DEFENDANTS' MOTION TO
EXCLUDE PLAINTIFFS' GENERAL
CAUSATION MEDICAL EXPERTS**

Benjamin W. Hulse, being first duly sworn, deposes and declares:

I am an attorney at the law firm of Blackwell Burke P.A., and one of the attorneys representing 3M Company and Arizant Healthcare Inc. (together, "Defendants") in this litigation. I submit this declaration in support of Defendants' Motion to Exclude Plaintiffs' General Causation Medical Experts. Unless otherwise stated, the facts set forth herein are based upon my personal knowledge, information, and belief.

1. Attached as Defendants' Exhibit 1 is a true and correct copy of Federal Drug Administration Safety Alert, entitled, "Forced Air Thermal Regulating Systems: Healthcare Provider Letter - Information About Use," available on the Federal Drug Administration's website at https://www.fda.gov/Medical_Devices/Safety/Letters_to_HealthCareProviders/ucm573837.htm (August 30, 2017).

2. Attached as Defendants' Exhibit 2 is a true and correct copy of Dr. Jonathan M. Samet's Expert Report.

3. Attached as Defendants' Exhibit 3 is a true and correct copy of excerpts from the deposition of Plaintiffs' expert Dr. Jonathan M. Samet.

4. Attached as Defendants' Exhibit 4 is a true and correct copy of Dr. William Jarvis' Expert Report.

5. Attached as Defendants' Exhibit 5 is a true and correct copy of excerpts from the deposition of Plaintiffs' expert Dr. William Jarvis.

6. Attached as Defendants' Exhibit 6 is a true and correct copy of Dr. Michael Stonnington's Expert Report.

7. Attached as Defendants' Exhibit 7 is a true and correct copy of excerpts from the deposition of Plaintiffs' expert Dr. Michael Stonnington.

8. Attached as Defendants' Exhibit 8 is a true and correct copy of excerpts from the deposition of Michael R. Reed.

9. Attached as Defendants' Exhibit 3 is a true and correct copy of Dr. Jonathan Borak's Expert Report.

10. Attached as Defendants' Exhibit 10 is a true and correct copy of Dr. Theodore Holford's Expert Report.

11. Attached as Defendants' Exhibit 11 is a true and correct copy of McGovern P.D, et al., "Forced-air warming and ultra-clean ventilation do not mix," 93B.11 *Journal of Bone & Joint Surgery* 1537 (2011).

12. Attached as Defendants' Exhibit 12 is a true and correct copy of excerpts from the deposition of Mark Albrecht.

13. Attached as Defendants' Exhibit 13 is a true and correct copy of a document entitled "HotDog Patient Warming, Augustine Temperature Management,

Refund Guarantee,” previously available on Augustine’s website at <http://www.hotdog-use.com/guarantee.php> (July 12, 2012).

14. Attached as Defendants’ Exhibit 14 is a true and correct copy of Exhibit 10 from the deposition of Dr. Jonathan Samet: Gillson, J. and Lowdon, G., “Implementing effective SSI surveillance.” *Infection Control* 71 (2014). Because the marked exhibit copy is difficult to read, a clean copy has been used.

15. Attached as Defendants’ Exhibit 15 is a true and correct copy of ECRI Institute, Forced-Air Warming and Surgical Site Infections: Our Review Finds Insufficient Evidence to Support Changes in Current Practice.” Guidance Article 122 (April 2013).

16. Attached as Defendants’ Exhibit 16 is a true a correct copy of Kellam M.D., et al., “Forced-air warming devices and the risk of surgical site infections.” 98.4 *AORN Journal* 353 (2013).

17. Attached as Defendants’ Exhibit 17 is a true and correct copy of Sikka R.S., et al., “Forced Air Warming Devices in Orthopaedics: A Focused Review of the Literature.” 96.24 *The Journal of Bone & Joint Surgery* e200 (2014).

18. Attached as Defendants’ Exhibit 18 is a true and correct copy of an excerpt from the Proceedings of the international Consensus Meeting on Periprosthetic Joint Infection held on August 1, 2013.

19. Attached as Defendants’ Exhibit 19 is a true and correct copy of Exhibit 5 from the deposition of Dr. William Jarvis, a publication entitled Mangram, A., et al.,

“Guideline for prevention of surgical site infection, 1999,” 27.2 *American Journal of Infection Control* 97 (1999).

20. Attached as Defendants’ Exhibit 20 is a true and correct copy of Exhibit 21 from the deposition of Dr. William Jarvis, publication entitled Gordon, S., et al. “Risk factors for wound infections after total knee arthroplasty,” 131.5 *American Journal of Epidemiology* 905 (1990).

21. Attached as Defendants’ Exhibit 21 is a true and correct copy of excerpts from the deposition of Dr. Jonathan Borak.

22. Attached as Defendants’ Exhibit 22 is a true and correct copy of Duke Infection Control Outreach Network (DICON), “HotDogs, Bair Huggers, and Lawsuits, Oh My! A brief review of the controversy surrounding perioperative warming methods,” 10.11 *Infection Prevention News* (November 2015).

23. Attached as Defendants’ Exhibit 23 is a true and correct copy of Allen M.W. et al., “Normothermia in Arthroplasty,” 32.7 *Journal of Arthroplasty* 2307 (2017).

24. Attached as Defendants’ Exhibit 24 is Order 10 and the accompanying Memorandum in *In re 3M Bair Hugger Litigation*, No. 62-CV-15-6432 (Minn. Dist. Ct. – Ramsey County).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Minneapolis, Minnesota, this 12th day of September, 2017.

s/Benjamin W. Hulse
Benjamin W. Hulse